

KORNSTEIN VEISZ WEXLER & POLLARD, LLP

ATTORNEYS AT LAW

757 THIRD AVENUE  
NEW YORK, NEW YORK 10017-2013  
TELEPHONE (212) 418-8600  
TELECOPIER (212) 826-3640  
[WWW.KVWP.NET](http://WWW.KVWP.NET)

MEMO ENDORSED

Emily Rosdeitcher, Associate

WRITER'S DIRECT DIAL NO.: (212) 418-8616

WRITER'S E-MAIL ADDRESS: [erosdeitcher@kvwmail.com](mailto:erosdeitcher@kvwmail.com)

September 26, 2013 U.S.D.C. N.Y.

DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 1-27-13

**BY E-MAIL**

The Honorable Judge Richard J. Sullivan  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, New York 10007

Re: Beth Israel Medical Center et al. v. Verizon Business Network Services, Inc.  
et al. 11 Civ. 4509 (RJS) [rel. 12 Civ. 1028]; Beth Israel Medical Center  
et al. v. Siemens Information and Communication Networks, Inc. et al.,  
12 Civ. 1028 (RJS) [rel. 11 Civ. 4509]

Dear Judge Sullivan:

As counsel for Plaintiffs, and having conferred with counsel for Defendants in both of these matters and with counsel for Third-Party Defendant in the Siemens matter, we submit this joint letter pursuant to the Court's September 13, 2013 Order.

The Court ordered the parties to submit a joint letter (a) informing the Court whether the parties consent to referral for settlement before Magistrate Judge Frank Maas; (b) proposing a briefing schedule for Third-Party Defendant Tangoe, Inc.'s motion to dismiss if Tangoe wishes to proceed with that motion; and (c) providing a proposed revised scheduling order for both cases.

Tangoe has agreed not to proceed with its motion to dismiss on the condition that the parties consent to referral for settlement before Judge Maas, and on the further condition that the parties identify, at least one week before the date of the settlement conference, the name and title of the party employee with decision-making authority who will attend the conference. The parties consent to such referral and to the further condition. To the extent possible, the parties request that a settlement conference before Judge Maas not be scheduled for at least four to six weeks. In the meantime, the parties will continue to move forward with discovery. Tangoe requests that it be permitted to file its Answer to the Third-Party Complaint on or before October 17, 2013.

Attached hereto is a proposed revised scheduling order. Tangoe takes the position that it needs an additional six months to catch up with discovery in a case that had been pending for

KORNSTEIN VEISZ WEXLER & POLLARD, LLP

Hon. Richard J. Sullivan  
September 26, 2013  
Page 2

almost two years before it was brought in as a third-party defendant, where limited document production has occurred and no party has been able to disclose to Tangoe the timing, volume or location of electronically stored information that will be produced in response to previously served discovery demands. The revised scheduling order was drafted to accommodate Tangoe's request. Plaintiffs and Defendant/Third-Party Plaintiff Siemens Enterprise Communications, Inc., however, are of the view that an extension of an additional four months should be sufficient for the parties to complete discovery, even taking into account Tangoe's late entry in the case. Verizon takes no position with respect to whether the discovery schedule be extended by four months or six months.

Respectfully,



Emily Rosdeitche

cc: Gavin J. Rooney, Esq.  
Natalie J. Kraner, Esq.  
Attorneys for the Verizon Defendants

Dennis H. Tracey, III, Esq.  
Sarah J. Gregory, Esq.  
David Michaeli, Esq.  
Attorneys for Defendant Siemens Enterprise Communications, Inc.

Glenn M. Cunningham, Esq.  
Lee Anne Duval, Esq.  
Attorneys for Third-Party Defendant Tangoc, Inc.

(Also by e-mail)

IT IS HEREBY ORDERED THAT the parties shall schedule a settlement conference before Judge Maas no later than December 1, 2013. The Court will issue a separate order modifying the discovery deadlines.

SO ORDERED  
Dated: 9/26/13  
RICHARD J. SULLIVAN  
U.S.D.J.

